

Response to the FCC RFC Regarding Broadcast Flagging

The intent of this letter is to comment on the current issues surrounding the “broadcast flag”, or digital rights protection being proposed for digital television. My fear as a consumer is loss of my rights, as with most digital rights management proposals. The rights of a consumer must of course be weighed against the rights of the artist, or copyright holder, and this metric should not come from the opinions of Hollywood alone.

As a consumer I am worried about the following things: the right to copy personally any program for personal use, (i.e. Time Shifting). Another concern is that this initiative will remove fair use rights for this media, since it will now fall under the wide umbrella of the DMCA and the “protection” it guarantees.

Secondary to the fact that this will inhibit the consumer’s rights, it will also inhibit the content providers ability to provide a digital signal. There will be increased overhead to provide this information to their consumers. We are already hampering technological innovation (as seen with HDTV) with current policy and mandates, why should we further this by allowing for even more excuses.

The fear of the copyright holder (Read Hollywood) is completely uncalled for, they are just trying to put in place draconian measures to insure their product is not used in ANY way they do not wish it to be. When past copyright law was written, it took into account fair use, which currently legislation does not seem to do. Current copyright law forbids people from displaying copyrighted content without license to do so, why is there a need for forced compliance to this law? If the copyright holders are in such fear for their revenue, why not push litigation instead of legislation.

I do understand that copyright infringement is a real issue, and the copyright holders have a commitment to secure their works, but does the current state of infringement warrant a forced mandate of compliance? As an active member of the Internet community for the past 8 years, I have been able to see first hand the proliferation of copyrighted content throughout the web. While it is a great amount of data, the users that are trading, or giving away such content are confined to a niche. Those with the following fill this niche: Those with a large Internet pipe and the knowledge and contacts to access such data, whose numbers are small if compared to the total number of Internet users. The niche for those that want to use DTV content for illicit means are even smaller, for this requires special [expensive] equipment to facilitate. I’m sure that any person can fill these with non-arbitrary numbers based on current Internet usage statistics.

My final gripe with this current proposal, or any proposal like it, is the impact it could have on Open Source Software. Government imposed regulations on hardware or software will limit those without sufficient resources to comply too such regulations. The forced regulation will limit those that see software creation as more than just functional, but also a way to express themselves. So we find innovation stifled with attempts to

protect it. This is my only bit of advocacy in this comment, but I believe it has merit in this case, and others like it.

To sum up, I do not steal cable, I do not steal copyrighted work, and I am like 98% of other Americans, why should you impact them all with such a mandate.

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